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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,496	05/24/2005	Gerhard Flory	095309.55311US	1571
23911 7590 07/12/2007 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER ABRAHAM, TANIA	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 07/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/506,496

Applicant(s)

FLORY ET AL.

Examiner

Tania Abraham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 9-11, 13 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 12, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitation "infinitely variable fashion" in line 3. The term "infinitely" renders the claim indefinite given that the various recline positions of the vehicle seat are bounded by the upright sitting position and the reclined resting position.
4. Claim 12 recites the limitation "the carriage" in line 3. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 14 recites the limitation "the deflection device" in line 2. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 15 recites the limitation "the supporting profile" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lafer.

Lafer shows a reclining seat in fig. 1 & 2 with a seat cushion 31 having adjustable sitting depth and a lower leg rest 40; a seat cushion inclination adjusting device 55, and a continuous seat upholstered element designed to upholster the seat cushion 31 and the leg rest 40 (col. 3: 58-63). As the leg rest 40 is adjusted, the seat cushion sitting depth and inclination, as well as the leg rest length and inclination is adjusted. For claim 3, the upholstered element is secured to the seat cushion 31 at one end and connected to the leg rest 40 at another end by a displaceable carriage 41a, 41b (fig. 6). For claim 4, the upholstered element has an enclosed upholstered surface that engages the carriage 41a, 41b. Concerning claim 5, the seat cushion 31 has a 2-component frame 20 shown in fig. 5, including a fixed securing frame 21 connected to the upholstered element and a supporting profile 50 extendable linearly. Regarding claim 6, the supporting profile 50 is retractable into a profile of the securing frame 21 as shown in fig. 4. For claim 7, the leg rest 40 is pivotally mounted at one end of the supporting profile 50 via pivot 44, such that the inclination of the bight of the u-shaped leg rest 40 can be adjusted, as shown in fig. 1 & 2.

9. Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ryan et al. Ryan et al shows a seat, which has an upright sitting position and a reclined resting position and which can be adjusted to multiple recline positions between the sitting position and the resting position (fig. 2a-2d), having a backrest 3 whose inclination can be adjusted, a seat cushion 5 with adjustable sitting depth, and a lower leg rest 7; wherein the inclination of the seat cushion 5 can be adjusted by of a seat

cushion inclination adjusting device 11. The seat cushion 5 has a continuous seat upholstered element which is designed to continuously upholster the seat 5 cushion and the lower leg rest 7, the lower leg rest being adjustable and having a space-saving stowaway position and a position of use. Regarding claim 12, (fig. 3 & 4) the seat upholstered element 7 is coupled to the carriage 60 of the lower leg rest and the carriage is connected to the seat cushion frame 33 via a tension relief belt 62, arranged to clamp the seat upholstered element at a particular inclination.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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12. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okajima et al in view of Simpson and Lafer. Okajima et al shows a reclining seat, which has an upright sitting position and a reclined resting position (fig. 2) and which can be adjusted to multiple recline positions between the sitting position and the resting position, having a backrest 16 whose inclination can be adjusted, and having a seat cushion 14 with adjustable sitting depth 14a and a lower leg rest 12, the lower leg rest being adjustable and having a space-saving stowaway, position and a position of use. Okajima et al does not show or suggest a continuous seat upholstered element designed to upholster the seat cushion and the lower leg rest, or the inclination of the seat cushion being adjusted by a seat cushion inclination adjusting device. Simpson shows a reclining seat (fig. 1 & 2), which has an upright sitting position and a reclined resting position, with a seat cushion 1 wherein the inclination of the seat cushion can be adjusted by of a seat cushion inclination adjusting device 7. Simpson teaches to have an inclinable seat cushion with accompanying inclination adjusting device in order to prevent forward movement of the occupant and provide a comfortable reclining position (col. 4: 65-68). Lafer shows a reclining seat, which has an upright sitting position and a reclined resting position, having a seat cushion 31 with adjustable sitting depth and a lower leg rest 40, and a continuous seat upholstered element which is designed to upholster the seat cushion and the lower leg rest, the lower leg rest being adjustable and having a space-saving stowaway, position and a position of use. Lafer teaches having an upholstered element attached to the seat cushion and leg rest in order to provide upholstered support to enhance the comfort of the lower leg rest 40 (col. 3: 58-

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62). So it would have been obvious to a person having ordinary skill in the art at the time of invention to modify the seat of Okajima et al with Simpson's inclination adjusting device in order to restrain forward movement of the occupant and provide a more comfortable reclining position to their seat, as taught by Simpson, and with Lafer's continuous seat upholstered element in order to the comfort of their lower leg rest, as taught by Lafer. Regarding claim 8, Okajima et al shows their lower leg rest 12 having a telescopic component 32 with a plurality of telescopic elements 34, and the length of the lower leg is telescopically adjustable by a telescopic drive 38 (fig. 3 & 5).

Allowable Subject Matter

13. Claims 9-11, 13, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 14 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tania Abraham
7/9/07



DAVID DUNN
SUPERVISORY PATENT EXAMINER